

CONTRACT REVIEW SHEET

Person Sending: Billy Wasson	Department Name: Courthouse Square
Date Sent: 4/1/99	

The attached: (CIRCLE ONE)
 Contract Amendment # 1 Grant Lease

INCOMING FUNDS? YES NO (CIRCLE ONE)
 If incoming funds you must attach a Revenue Management Sheet

Contractors Name:	Pence/Kelly Construction, Inc.		
Date From: 3/5/99	Date To: 10/99		
Amount of Contract or Amendment: \$2530.00			
If an Amendment, New Contract Total = \$18462014.00			
Certificates of Insurance Attached:	Liability (circle one) <u>Yes</u> No	Workers Comp (circle one) <u>Yes</u> No	If no insurance attached, why not? ON FILE

Process taken to select contractor:
 Verbal quote: _____ Written quote: _____ RFP: _____ Competitive Bid: X Renewal: _____
 (Attach copy for reference)
Description of Contract Services:

Additional Services to provide underground storage tank removal, of tank found on March 15, 1999 located at mid-west block. Work to be performed on a not to exceed basis.

For Risk Management Use	
Date Risk Received: <u>4/2/99</u>	Date Scheduled on BOC Agenda
Authorization for Health Administration to sign on behalf of BOC: yes <u>no</u>	Additional Comments: _____ _____ _____
Staff Review Signatures:	
<u>Peggy Mitchell</u> Risk Management	<u>4-2-99</u> date
<u>Shirley Strickland</u> Legal Counsel	
<u>12 April 1999</u> date	

Date: _____
 Returned to Department/_____ for _____ signatures. _____ Copy to Fiscal Services _____ /

AMENDMENT # 1

TO
CONTRACT FOR SERVICES

The Contract for Services between Marion County and Pence/Kelly Construction, Inc. dated February 17, 1999, is amended as follows: Not to exceed \$2530.00

To provide underground storage tank removal, of tank found on March 15, 1999 located at mid-west block. Work to be performed on a not to exceed basis.

All other provisions of the original agreement remain unchanged and in effect.

Signed this 1st day of February, 1999.

Pence/Kelly Construction, Inc.

Signature: David Hays

Name: David Hays

Title: PM

Date: 4/1/99

Tax ID# _____

Marion County

Billy Wasson
Billy Wasson

County only cost

Salem Area Transit District

John Whittington
John Whittington

Approved as to Form:

Contracts Coordinator

Reggie Mitchell
Date: 4/1/99

Legal Counsel

J. Ellen Stronach
Date: 12 April 1999

Marion County Board of Commissioners

Patricia Suple
Commissioner

4/7/99
Date

Michael Depp
Commissioner

Date

Randall Franke
Commissioner

Date

SECURITY AGREEMENT

DATE:

8/12/, 1999

PARTIES:

Pence/Kelly Construction, Inc.
2747 Pence Loop SE
Salem, OR 97302

("Debtor")

AND:

Marion County
100 High St NE
Salem, OR 97301

("Secured Party")

and

Salem Area Mass Transit District
3140 Del Webb Ave NE
Salem, OR 97303-4165**RECITALS:**

A. Debtor, as contractor, has entered into a construction contract dated February 17, 1999 with Secured Party, as owner, to construct improvements on certain real property described therein.

B. Under the terms of the construction contract, Secured Party has the right to withhold retainage from progress payments. Debtor has requested that Secured Party accept securities in lieu of retainage pursuant to ORS 279.420(3).

C. Secured Party believes that because of the federal funding of the construction, ORS 279.420 is inapplicable, but is willing to accept securities in lieu of retainage in order to avoid the cost, delay and uncertainty of litigation.

D. NOW, THEREFORE, in order to secure payment of retainage, in the manner contemplated by ORS 279.420, the parties hereby agree as follows:

SECTION 1. DEFINITIONS

1.1 Whenever the following terms are used in this Agreement, they are defined as follows:

(1) *Code* means the Uniform Commercial Code of the state of Oregon as amended from time to time.

(2) *Collateral* means all of Debtor's rights to and under that certain securities account, and the securities held in such account, whether now owned or existing or hereafter acquired or arising or in which Debtor now has or hereafter acquires any rights, in the name of "Marion County and Salem Area Mass Transit District Secured Party, f/b/o Pence/Kelly Construction, Inc." at Salomon Smith Barney, Inc., and its successors in interest, ("Account holder"), account number ~~520-22204-13-35~~ together with all products, proceeds, rents, and profits.

(3) *Disclosure Schedule* means the attached Disclosure Schedule as amended from time to time with Secured Party's consent.

(4) *Event of Default* means any of the events listed in Section 6 of this Agreement.

(5) *Lien* means any mortgage, pledge, lien, claim, charge, encumbrance, security interest, conditional-sale agreement, capital lease, or other title-retention agreement against or with respect to any of Debtor's property or interest in property.

(6) *Material Adverse Effect* means a material adverse effect on (a) Debtor's financial condition, business, assets, or ability to pay the Obligations, or (b) Secured Party's rights in the Collateral or the priority of those rights.

(7) *Obligations* means the Debtor's obligations under the construction contract with respect to which Secured Party would have the right to withhold retainage under the construction contract, and all of Debtor's obligations under this Agreement.

(8) *Person* means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, institution, entity, party, or government or political subdivision or agency of them.

1.2 All terms in this Agreement that are not defined in it will, unless the context indicates otherwise, have the meanings provided for by the Code to the extent that those terms are defined in the Code.

SECTION 2. GRANT OF SECURITY

As security for the full and prompt payment, in cash, and performance of all the Obligations, Debtor hereby grants to Secured Party a security interest in all of the Collateral.

SECTION 3. PERFECTION OF SECURITY INTEREST; DUTY OF CARE

Debtor will perform all steps requested by Secured Party to perfect, maintain, and protect Secured Party's security interest in the Collateral. Debtor and Secured Party will enter into an account control agreement with the account holder, in a form reasonably acceptable to Secured Party and providing sufficient control over the account as necessary to perfect priority of the security interest pursuant to ORS 79.1150 and 78.1060 over the interests all other Persons. Debtor agrees to execute and file financing statements, and do whatever may be necessary under the applicable Uniform Commercial Code in the state where the Collateral is located, to perfect and continue the Secured Party's interest in the Collateral, all at Debtor's expense. Secured Party has no duty of care with respect to the Collateral.

SECTION 4. WARRANTIES AND REPRESENTATIONS

Except as set forth on the Disclosure Schedule, Debtor warrants and represents as follows:

4.1 Debtor is a corporation duly organized, validly existing, and in good standing under the laws of the state of Oregon and is duly qualified as a foreign corporation and in good standing in each jurisdiction where such qualification is required, except when the failure to qualify would not reasonably be expected to have a Material Adverse Effect;

4.2 This Agreement is the legal, valid, and binding obligation of Debtor enforceable against Debtor in accordance with its terms;

4.3 Debtor is not and has not during the preceding five years been known as or used any other corporate or fictitious name; and

4.4 Debtor has good, indefeasible, and merchantable title to and ownership of the Collateral, free and clear of all Liens.

SECTION 5. COVENANTS

Until the Obligations are fully paid (in cash), performed, and satisfied and this Agreement is terminated, Debtor covenants that, at its expense, it will:

5.1 Maintain the value of all Collateral in an amount equal to not less than the amount of retainage that, but for this Agreement, Secured Party would be entitled to withhold under the construction contract;

5.2 At Secured Party's request, Debtor will execute and deliver all instruments necessary for Secured Party to obtain information concerning the Collateral from the account holder or others having custody of or maintaining records of Debtor relating to the Collateral;

5.3 Not sell or otherwise transfer or dispose of any interest in the Collateral without the written consent of Secured Party.

5.4 Maintain Debtor's corporate existence and maintain its qualification and good standing in all jurisdictions in which such qualification and good standing are required, except in those jurisdictions where the failure to qualify and be in good standing will not have a Material Adverse Effect; and

5.5 Keep the Collateral free and clear of all Liens and pay when due all taxes, assessments, and governmental or other charges levied, assessed, or imposed on or with respect to the Collateral or any part of it.

SECTION 6. EVENTS OF DEFAULT

6.1 Each of the following events, whether or not caused by or within the control of Debtor, will constitute an Event of Default under this Agreement:

- (1) Debtor fails to pay or perform when due any of the Obligations;
- (2) Debtor commits any breach of any of its obligations under this Agreement;
- (3) Any representation or warranty made by Debtor in this Agreement is, or becomes, untrue or misleading in any material respect;
- (4) Debtor fails to pay, becomes insolvent or unable to pay, or admits in writing its inability to pay, its debts as they become due, calls a meeting of creditors for the composition of debts, or makes any assignment for the benefit of creditors;

(5) A case or proceeding with respect to Debtor is commenced under any applicable bankruptcy, insolvency, reorganization, receivership, or readjustment-of-debt law or other similar law, or Debtor's board of directors (or any committee of the board) adopts any resolution or otherwise authorizes action to approve any of the foregoing; or an order for the appointment of a receiver, liquidator, sequestrator, trustee, custodian, or other officer having similar powers over Debtor, any of the Collateral, or a substantial part of Debtor's property is entered; or a warrant of attachment, execution, or similar process against any of the Collateral or any substantial part of Debtor's property is issued;

(6) The occurrence of any seizure, vesting, or intervention by or under the authority of a government by which Debtor's management is displaced or its authority in the conduct of its business is materially curtailed;

(7) Any judgment, order, or writ in excess of \$200,000.00 is rendered or entered against Debtor and not paid, satisfied, or otherwise discharged within 20 days of the date such judgment, order, or writ becomes final and nonappealable, except any judgment for which Debtor is fully insured and with respect to which the insurer has admitted in writing its liability for the full amount or except if the enforcement of such judgment, order, or writ has been stayed or Debtor's liability on it has been bonded in a manner and on terms reasonably satisfactory to Secured Party;

(8) A notice of lien, levy, or assessment is filed or recorded with respect to any of the Collateral by any governmental agency, or any taxes or debts owing at any time hereafter to any government agency becomes a Lien on any Collateral;

(9) Debtor voluntarily dissolves or ceases to exist, or any final and nonappealable order or judgment is entered against Debtor decreeing its dissolution;

(10) There occurs, or can reasonably be expected to occur with the passage of time, any circumstance that may reasonably be expected to have a Material Adverse Effect; or

(11) A material breach under any agreement, document, or instrument material to Debtor's business or condition occurs and such breach continues for more than 10 days.

6.2 Each Event of Default under this Agreement will be deemed continuing until it is waived in writing by, or cured to the written satisfaction of, Secured Party.

SECTION 7. SECURED PARTY'S RIGHTS AND REMEDIES

7.1 On the occurrence of an Event of Default, Secured Party (1) may immediately commence withholding retainage as provided in the construction contract and ORS 279.420(1)(a); and (2) in addition to any other rights and remedies contained in this Agreement, has all of the rights and remedies of a secured party under the Code and all other applicable law, all of which rights and remedies will be cumulative and nonexclusive to the extent permitted by law.

7.2 Following the occurrence of any Event of Default, Secured Party (1) may, in its discretion and without affecting or impairing its right to take any other further action with respect to any Collateral, exchange, enforce, waive, or release any of the Collateral; and (2) with respect to any securities accounts, will have all rights and powers to sell or assign any account or securities held in any account on such terms, for such amount, and at such time or times as Secured Party

deems advisable, and the proceeds shall be paid to Secured Party. Any sale, lease, or other disposition by Secured Party of the Collateral, or any part of it, may be for cash or other value. Debtor will execute and deliver, or cause to be executed and delivered, such instruments, documents, assignments, deeds, waivers, certificates, and affidavits and take such further action as Secured Party reasonably requires in connection with such sale, and Debtor hereby constitutes Secured Party as its attorney in fact to execute any such instrument, document, assignment, deed, waiver, certificate, or affidavit on behalf of Debtor and in its name.

7.3 Secured Party shall be entitled to hold the Collateral, or the proceeds of the Collateral, in its own name and for its own account, as retainage under the construction contract, in the manner described in ORS 279.420(1)(a). Secured Party shall have no obligation to dispose of any of the Collateral, and shall in no event be deemed to have accepted the Collateral in satisfaction of Debtor's Obligations.

7.4 With respect to any Collateral which is comprised of securities customarily sold on a recognized market, Secured Party shall not be obligated to give Debtor any notice of sale or other intended disposition. With respect to any other kind of Collateral, any notice given by Secured Party pursuant to Section 10.6 and deemed received by Debtor pursuant to Section 10.6 at least five days before a sale, lease, disposition, or other intended action by Secured Party with respect to any of the Collateral will constitute fair and reasonable notice to Debtor of any such action. A public sale in the following fashion will be conclusively presumed to be reasonable: (1) the sale is held in Marion County; (2) the sale is conducted by auction, but it need not be by a professional auctioneer; and (3) any Collateral is sold as is and without any preparation for sale.

7.5 Secured Party will have no obligation to (1) preserve any rights to the Collateral against any Person, (2) make any demand on or pursue or exhaust any rights or remedies against Debtor or others with respect to payment of the Obligations, (3) pursue or exhaust any rights or remedies with respect to any of the Collateral or any other security for the Obligations, or (4) marshal any assets in favor of Debtor or any other Person against or in payment of any or all of the Obligations. To the extent that Debtor makes a payment to Secured Party or Secured Party enforces any security interest and such payment or the proceeds of such enforcement or any part of it are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver, or any other party under any law or equitable cause, then, to the extent of such recovery, the Obligations or part of them originally intended to be satisfied will be revived and continued in full force and effect with all Collateral as security for it, as if such payment had not been made or such enforcement or setoff had not occurred.

7.6 Secured Party may discharge any Lien or bond the same, pay any charges, or obtain any record and pay any taxes, assessments, and governmental charges levied or assessed or imposed on or with respect to the Collateral that Debtor fails to pay. Debtor will reimburse Secured Party for all costs and expenses incurred by Secured Party in exercising its rights or remedies under this Agreement, including court costs and costs of sale.

SECTION 8. WAIVERS

All of Secured Party's rights with respect to the Collateral will continue unimpaired, and Debtor will be and will remain obligated in accordance with the terms of this Agreement, notwithstanding (1) any release or substitution of Collateral or other security for the Obligations (2) any failure to perfect Secured Party's interest in the Collateral or other security, or (3) any delay, extension of time, renewal, compromise, or other indulgence granted by Secured Party in reference

to any Obligations. Debtor waives all notice of any such delay, extension, release, substitution, renewal, compromise, or other indulgence, and consents to be bound by it as fully and effectively as if Debtor had expressly agreed to it in advance. Secured Party's failure to exercise, or delay in exercising, any right, remedy, or option under this Agreement will not operate as a waiver by Secured Party of its right to exercise any such right, remedy, or option. No waiver by Secured Party will be effective unless it is in writing and then only to the extent specifically stated. Secured Party's rights and remedies will be cumulative and not exclusive of any other right or remedy that Secured Party may have.

SECTION 9. APPLICABLE LAW

This Agreement will be interpreted and the rights and liabilities of the parties to it will be determined in accordance with the local law of the state of Oregon, excluding any conflicts of law rule or principle (other than ORS 79.1030) that might otherwise refer construction or interpretation of this Agreement to the substantive law of another jurisdiction.

SECTION 10. MISCELLANEOUS

10.1 This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and will be binding on both parties.

10.2 All of Debtor's representations and warranties contained in this Agreement are true at this time, will survive the execution and delivery of this Agreement, and will remain true until the Obligations are fully performed, paid, and satisfied.

10.3 This Agreement will inure to the benefit of and be binding on the successors and assigns of each of the parties to it.

10.4 Debtor will pay Secured Party on demand, together with interest at a per annum rate equal to 400 basis points plus the rate announced from time to time by U.S. National Bank of Oregon, or its successors, as its "prime rate," all amounts payable by Debtor under this Agreement, including, without limitation, the amounts described in Sections 7.6 and 10.5.

10.5 Debtor will indemnify and hold Secured Party and its employees, officers, directors, shareholders, agents, and attorneys ("Indemnitees") harmless from, and reimburse Indemnitees for, (1) all Attorney Fees and (2) all costs, fees, expenses, and liabilities incurred by Indemnitees or for which Indemnitees become obligated, without limit and without regard to cause (including preexisting conditions) or the negligence of any party, including, but not limited to, any negligent act or omission of Secured Party, but expressly excluding Secured Party's gross negligence or willful misconduct, in connection with or arising out of the exercise by Secured Party of any of its rights with respect to the Collateral and the Obligations, including, without limitation, protecting its interests in any bankruptcy proceeding involving Debtor. The foregoing indemnity will remain operative and in full force and effect regardless of the expiration of this Agreement, the repayment of the other Obligations, or any investigation made by or on behalf of Secured Party or the Debtor. As used in this Agreement, "Attorney Fees" means the reasonable fees (and related costs and expenses) for the services of the attorneys (and all paralegals and other staff employed by such attorneys) employed by Secured Party from time to time (1) in connection with or arising out of any bankruptcy proceeding, receivership proceeding, or similar proceeding involving Debtor; (2) to commence, defend, participate in, or intervene in any court proceeding (whether at the trial level or the appellate level) or arbitration proceeding relating to this Agreement,

the Collateral, the Obligations, or the relationship between Debtor and Secured Party; and (3) to protect, collect, lease, sell, take possession of, or liquidate any of the Collateral, to enforce or to attempt to enforce any of Secured Party's rights under this Agreement and to give any advice with respect to such enforcement; however, this definition does not include any attorney fees incurred by Secured Party in any court proceeding (other than a proceeding under or related to 11 USC §101 et seq.) if (a) such fees were incurred in an action by either Secured Party or Debtor against the other and (b) Debtor is the prevailing party in the action.

10.6 Any notice or notification required, permitted, or contemplated under this Agreement must be in writing, must be addressed to the party to be notified at the address set forth above or at such other address as each party may designate for itself from time to time by notice hereunder, and will be deemed to have been validly served, given, or delivered (1) five business days after deposit in the United States mails, with first-class postage prepaid, (2) the next business day after such notice was delivered to a regularly scheduled overnight delivery carrier or (3) on receipt of notice given by telecopy, mailgram, telegram, telex, or personal delivery to the party.

10.7 Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law, but if any provision of this Agreement is prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity, without invalidating the remainder of the provision or the remaining provisions of this Agreement.

10.8 This Agreement cannot be changed orally or by the conduct of the parties. Any amendment, modification, or change may be made only by a writing signed by the party against whom enforcement is sought.

10.9 All Secured Party's rights and remedies, whether evidenced in this Agreement or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by Secured Party to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or take action to perform an obligation of Debtor under this security agreement after failure of Debtor to perform shall not affect Secured Party's right to declare a default and exercise its remedies under Section 7.

10.10 In the event this Agreement is placed in the hands of an attorney for enforcement, the party in default agrees to pay the reasonable costs and expenses of enforcing this Agreement, including reasonable attorneys' fees. In the event a suit or action is filed to enforce this Agreement or to construe or interpret this Agreement, the prevailing party shall be entitled to recover the reasonable costs and expenses of the suit or action, at trial or upon appeal, including reasonable Attorneys' Fees. In the event suit or action is instituted in a Bankruptcy Court to enforce or interpret any of the terms of this Agreement, to seek relief from an automatic stay, to obtain adequate protection, to determine dischargeability of any debts, or to otherwise assert the interest of the creditor in a bankruptcy proceeding, the debtor shall pay the reasonable costs and expenses incurred by the creditor including reasonable Attorneys' Fees.

10.11 Secured Party shall not be deemed to have waived any rights under this Agreement or any other writing signed by Debtor unless such waiver be in writing and signed by Secured Party. No delay or omission on the part of Secured Party shall operate as a waiver of such right or any other right. A waiver by any party of a breach of a provision of this Agreement shall not constitute a waiver or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision.

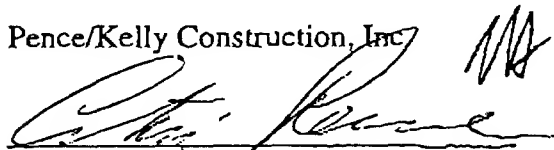

10.12 In this Agreement, the singular shall include the plural and the plural shall include the singular. Any indication of gender of a party in this Agreement shall be modified, as required, to fit the gender of the party in question. The headings used in this Agreement are solely for convenient reference, are not part of this Agreement, and are not to be considered in construing or interpreting this Agreement.

10.12 If in any judicial proceeding a court shall refuse to enforce any of the provisions of this Agreement, any unenforceable provision shall be construed or modified to the extent necessary to make such provision enforceable or, only if such construction or modification is not possible, the unenforceable provision shall be deemed eliminated from this Agreement for the purpose of such proceeding to the extent necessary to permit the remainder of the Agreement to be enforced in such proceeding.


10.13 This Agreement is the entire agreement between the parties pertaining to its subject matter, and it supersedes all prior agreements, representations, and understandings of the parties. There are no agreements, representations or warranties except as set forth in this Agreement. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all the parties.

Pence/Kelly Construction, Inc.

Marion County


By: Carl Pence
Title: President
By: Billy F. Warren
Title: Project Coordinator

Salem Area Mass Transit District


By: JOHN WHITTINGTON
Title: PROJECT COORDINATOR

SALOMON SMITH BARNEY

A member of Citigroup

ACCOUNT CONTROL AGREEMENT

Salomon Smith Barney Inc. Account Number

Note: This agreement is subject to the review and acceptance by Salomon Smith Barney Inc.

TO: Salomon Smith Barney Inc. ("Salomon Smith Barney"), Security Intermediary

DATE: August 12, 1999

Gentlemen:

The undersigned PENCE/KELLY CONSTRUCTION (hereinafter "Pledgor") and MARION COUNTY AND SALEM MASS TRANSIT (hereinafter "Pledgee") entered into an agreement dated 8/12/99, ("Security Agreement") pursuant to which a security interest in all present and future assets (hereinafter defined) in the Account (hereinafter defined) of the Pledgor are granted by the Pledgor to the Pledgee (the "Pledge"). In connection therewith, the Pledgor hereby instructs you to:

1. establish a cash securities account, which is to be known as the "MARION COUNTY AND SALEM MASS TRANSIT Secured Party, f/b/o PENCE/KELLY CONSTRUCTION" (the "Account");
2. place the assets, including all financial assets, securities, entitlements and all other assets now or hereinafter received in such Account, (together the "Assets") including without limitation those assets listed in Exhibit A attached hereto and made a part hereof, into the Account. The Assets are pledged according to the terms of the Security Agreement. As long as the Assets are pledged to Pledgee, Salomon Smith Barney will not invade the Assets to cover margin debits or calls in any other accounts of the Pledgor; Salomon Smith Barney agrees that, except for liens resulting from commissions, fees, or charges based upon transactions in the Account pursuant to its Client Agreement with Pledgor, it subordinates in favor of Pledgee any security interest, lien or right of setoff Salomon Smith Barney may have, acknowledges that neither it, its subsidiaries or its affiliates has or will assert a lien on the Assets, has not received notice of any other security interest in such Assets. In the event any such notice is received, Salomon Smith Barney will promptly notify Pledgee. Pledgor herein represents that the Assets are free and clear of any lien or encumbrances, and agrees that, with the exception of the security interest granted herein, no further or additional liens or encumbrances will be placed on the Assets without the express written consent of both Pledgee and Salomon Smith Barney.

3. maintain the Assets pledged as described in Exhibit A attached hereto, or the proceeds from the sale of such Assets, together with any income derived therefrom, except that Pledgee and Pledgor acknowledge and agree that Salomon Smith Barney shall not be held responsible for any market decline in the value of the Assets or to notify Pledgee or Pledgor of any such decline in the market value of the Assets or to take any action with regard to such Assets except upon the specific written directions stated herein;
4. provide to Pledgee, with a duplicate copy to Pledgor, a monthly statement of Assets and a confirmation statement of each transaction effected in the Account after such transaction is effected.

The Pledgor and Pledgee consent and agree that the only instructions that shall be given to Salomon Smith Barney in regard to or in connection with the Account shall be given by an Authorized Officer of Pledgee, except that the Pledgor may give instructions to enter into purchase or sale transactions in the Account. Pledgor shall not instruct Salomon Smith Barney to deliver and, except as may be required by law or by Court Order, Salomon Smith Barney shall not deliver cash and/or securities, or proceeds from the sale of, or distributions on, such securities out of the Account to the Pledgor or to any other person or entity. Upon written notice by an Authorized Officer of Pledgee, Salomon Smith Barney shall comply with the entitlement orders and instructions of Pledgee without the consent of Pledgor or any other person (it being understood and agreed that Salomon Smith Barney shall have no duty or obligation whatsoever of any kind or character to have knowledge of the terms of the Security Agreement or to determine whether or not an event of default exists). Pledgor and Pledgee hereby agree to indemnify and hold harmless Salomon Smith Barney, its affiliates, officers and employees from and against any and all claims, causes of action, liabilities, lawsuits, demands and/or damages, including, without limitation, any and all court costs and reasonable attorney's fees, that may result by reason of Salomon Smith Barney complying with such instructions of Pledgee. In the event that Salomon Smith Barney is sued or becomes involved in litigation as a result of complying with the above stated written instructions, Pledgor and Pledgee agree that Salomon Smith Barney shall be entitled to charge all the costs and fees it incurs in connection with such litigation to the Assets in the Account and to withdraw such sums as the costs and charges accrue.

The Authorized Officer of Pledgee who shall give oral instructions hereunder shall confirm the same in writing to Salomon Smith Barney within five (5) days after such oral instructions are given. So long as this agreement remains in effect, Pledgee shall be entitled to receive duplicates of any and all notices and statements of account that the Pledgor of such Account is entitled to receive.

For the purpose of this Agreement, the term "Authorized Officer of Pledgor" shall refer in the singular to CURT PENCE (who is, on the date hereof, President of the Pledgor) and "Authorized Officer of Pledgee" shall refer in the singular to Tom Wolfgram (who is, on the date hereof, Business Services Manager of the Pledgee). If the Pledgor or Pledgee is a natural person then such term shall mean the Pledgor or Pledgee respectively and, if more than one natural person is the Pledgor or Pledgee, such natural persons may act severally. In the event that either Pledgor or Pledgee shall find it advisable to designate a replacement of any of its Authorized Officers, written notice of any such replacement shall be given to Salomon Smith Barney.

Except with respect to the obligations and duties as set forth herein, this Agreement shall not impose or create any obligations or duties upon Salomon Smith Barney greater than or in addition to the customary and usual obligations and duties of Salomon Smith Barney to Pledgor.

This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the respective parties hereto and shall be construed in accordance with the laws of the State of New York without regard to its conflict of law principles and the rights and remedies of the parties shall be determined in accordance with such laws.

Salomon Smith Barney will treat all property at any time held by Salomon Smith Barney in the Account as financial Assets. Salomon Smith Barney acknowledges that this Agreement constitutes written notification to Salomon Smith Barney, pursuant to Articles 8 and 9 of the Uniform Commercial Code of the State of New York and any applicable federal regulations for the Federal Reserve Book Entry System, of the Pledgee's security interest in the Assets. The Pledgor, Pledgee and Salomon Smith Barney also are entering into this Agreement to provide for the Pledgee's control of the Assets and to perfect, and confirm the first and exclusive priority of the Pledgee's security interest in the Assets. Salomon Smith Barney agrees to promptly make and thereafter maintain all necessary entries or notations in its books and records to reflect the Pledgee's security interest in the Assets.

If any term or provision of this Agreement is determined to be invalid or unenforceable, the remainder of this Agreement shall be construed in all respects as if the invalid or unenforceable term or provision were omitted. This Agreement may not be altered or amended in any manner without the express written consent of Pledgor, Pledgee and Salomon Smith Barney. This Agreement may be executed in any number of counterparts, all of which shall constitute one original agreement.

This Agreement may be terminated by Salomon Smith Barney upon 30 days written notice to Pledgor and Pledgee. Upon expiration of such 30 day period, Salomon Smith Barney shall be under no further obligation except to hold the pledged Assets in accordance with the terms of this Agreement, pending receipt of written instructions from Pledgor and Pledgee, jointly regarding the further disposition of the pledged Assets.

The Pledgor and Pledgee acknowledge that this Agreement supplements the Pledgor's existing Client Agreement(s) with Salomon Smith Barney and, except as expressly provided herein, in no way is this Agreement intended to abridge any rights that Salomon Smith Barney might otherwise have.

MAR 19 '99 21:44PM SMITH BARNEY

IN WITNESS WHEREOF, Pledgor and Pledges have caused this Agreement to be executed by their duly authorized officers all as of the day first above written.

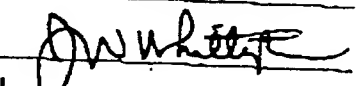
PLEDGOR
PENCE/KELLY CONSTRUCTION

By Curt PenceTitle PresidentSignature Date 8/12/99

PLEDGEE
MARION COUNTY

By Bruce F. WassonTitle Project CoordinatorSignature Date 9/9/99

Salem Area Mass Transit District

By JOHN WHITTINGTONTitle PROJECT COORDINATORSignature Date 9/8/99

SALOMON SMITH BARNEY INC.

By 

(Resident Vice President)

Approved By By CRAG D. PFEIFFER

(Regional Vice President)

Date 9/13/99

SEP 17 1999

Date _____